

State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

492P0436

HOUSE BILL NO. 1126

Introduced by: Representatives Turbiville, Engels, Faehn, Gilson, Halverson, Hills, Krebs, Moore, Nygaard, Olson (Russell), Pitts, Rave, Sigdestad, and Street and Senators Bartling, Lintz, McCracken, Olson (Ed), Peterson (Jim), Schmidt (Dennis), and Turbak Berry

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the issuance of on-
2 sale wine licenses and the sale of wine.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 35-4-2 be amended to read as follows:

5 35-4-2. Classes of licenses, with the fee of each class, follow:

6 (1) Distillers--four thousand dollars. However, no license fee is required for
7 manufacturers of alcohol for use in industry as a nonbeverage. If such manufacturer
8 of industrial alcohol shall at any time manufacture, produce, distill, sell, barter, or
9 dispose of alcohol for any use other than an industrial use, the license fee required
10 by this section shall be allocated to and payable for the portion of the year the
11 manufacturer devoted to such other use for each calendar month or fraction thereof
12 while so engaged, but in no case less than one-twelfth of said license fee;

13 (2) Wholesalers of alcoholic beverages--five thousand dollars;

14 (3) Off-sale--not less than five hundred dollars in municipalities of the first class, not



1 more than four hundred dollars in municipalities of the second class, and not more
2 than three hundred dollars in municipalities of the third class. The renewal fee for
3 such licenses may not exceed five hundred dollars in municipalities of the first class,
4 four hundred dollars in municipalities of the second class, and three hundred dollars
5 in municipalities of the third class;

6 (4) On-sale--in municipalities of various classes: municipalities of the first class, not less
7 than one dollar for each person residing within the municipality as measured by the
8 last preceding federal census, the renewal fee for such license is fifteen hundred
9 dollars; municipalities of the second class, no more than twelve hundred dollars;
10 municipalities of the third class, no more than nine hundred dollars;

11 (5) Off-sale licenses issued to municipalities under local option--not less than two
12 hundred fifty dollars;

13 (6) On-sale licenses issued outside municipalities --except as provided in § 35-4-11.9,
14 not less than the maximum that the municipality to which the applicant is nearest is
15 charging for a like license in that municipality, the renewal fee shall be the same as
16 is charged for a like license in the nearest municipality. However, if the nearest
17 municipality is more than fifteen miles from the on-sale license, the fee shall be
18 established pursuant to § 35-4-11.10. If the municipality to which the applicant is
19 nearest holds an on-sale license, pursuant to § 35-3-13 and does not charge a
20 specified fee, then the fee shall be the maximum amount that could be charged as if
21 the municipality had not been authorized to obtain on-sale licenses pursuant to § 35-
22 3-13. However, if the nearest municipality is a municipality of the first class and is
23 authorized to hold an on-sale license pursuant to § 35-3-13, such fee may not be more
24 than one hundred fifty percent of the minimum a municipality not so authorized may

1 charge for a like license. The renewal fee shall be the same as could be charged for
2 a like license in the nearest municipality;

3 (7) Solicitors--twenty-five dollars;

4 (8) Transportation companies--twenty-five dollars;

5 (9) Carrier--one hundred dollars, which fee entitles the licensee to sell or serve alcoholic
6 beverages on all conveyances the licensee operates within the state;

7 (10) Dispensers--ten dollars;

8 (11) On-sale dealers at publicly operated airports--two hundred fifty dollars;

9 (12) ~~On-sale dealers in wine for Sunday~~ Wine retailers, being both package dealers and
10 on-sale dealers--five hundred dollars;

11 (13) Convention facility on-sale--not less than one dollar for each person residing within
12 the municipality as measured by the last preceding federal census, the renewal fee for
13 such license, in municipalities of the first class, is fifteen hundred dollars; the
14 renewal fee for such license, in municipalities of the second class, is no more than
15 twelve hundred dollars; the renewal fee for such license, in municipalities of the third
16 class, is no more than nine hundred dollars;

17 (14) Manufacturers of malt beverages--five hundred dollars;

18 (15) Wholesalers of malt beverages--four hundred dollars;

19 (16) Malt beverage retailers, being both package dealers and on-sale dealers--two hundred
20 fifty dollars;

21 (17) Malt beverage package dealers--one hundred fifty dollars;

22 (18) On-sale dealers in light wine containing not more than six percent alcohol by weight
23 for each day of the week between the hours of seven a.m. and two a.m. to nonprofit
24 corporations established pursuant to chapter 7-27--two hundred dollars; and

(19) Off-sale package wine dealers in table wines, sparkling wines, sacramental wine, and distilled spirits produced from product provided to an artisan distiller by the respective farm winery to be operated in conjunction with a farm winery established pursuant to chapter 35-2--one hundred fifty dollars.

Section 2. That § 35-4-2.2 be repealed.

~~35-4-2.2. A license authorized under subdivision 35-4-2(12) may only be issued to the owner or operator of a restaurant or a motel-hotel facility and shall permit the licensee to serve the enumerated beverages between 12:00 noon and 12:00 p.m. of each day of the week including Sunday. The term restaurant as used in this section means only a room regularly and in a bona fide manner used and kept open for the serving of meals to guests for compensation which has suitable table accommodations for at least fifty guests at one and the same time, and a connected kitchen containing conveniences for cooking sufficient to provide meals in a bona fide manner for fifty guests at one and the same time. The term motel-hotel facility as used in this section means a facility used and kept open for the hosting of large groups of guests for compensation, which has at least seventy-five beds that are suitable lodging accommodations.~~

Section 3. That § 35-4-2.8 be amended to read as follows:

35-4-2.8. An on-sale licensee, licensed under subdivision 35-4-2(4) or (6), may also be licensed under subdivision 35-4-2(12) or (16), or both. A licensee holding two or more licenses pursuant to this section may exercise the privileges granted under the license issued pursuant to subdivision 35-4-2(12) ~~during the times specified in § 35-4-2.2 or the privileges granted under the license issued pursuant to~~ or subdivision 35-4-2(16) during the time specified in § 35-4-81.2, ~~or both.~~

Section 4. That § 35-4-81.2 be amended to read as follows:

35-4-81.2. No licensee licensed under subdivisions 35-4-2(16) and (17) may sell, serve, or

1 allow to be consumed on the premises covered by the license, any malt beverage between the
2 hours of two a.m. and seven a.m. No licensee licensed under subdivision 35-4-2(12) may sell,
3 serve, or allow to be consumed on the premises covered by the license, any wine between the
4 hours of two a.m. and seven a.m. A violation of this section is a Class 2 misdemeanor.

5 Section 5. That § 35-4-11.4 be amended to read as follows:

6 35-4-11.4. Any municipality or county may issue a special malt beverage ~~retailers'~~ retailers
7 license and a special retail on-sale wine ~~dealers'~~ retailers license to any civic, charitable,
8 educational, or fraternal organization in conjunction with a special event within the municipality
9 or within the county. Educational does not include any elementary, secondary, or higher
10 educational institution in the public school system of this state. Any license issued pursuant to
11 this section may be issued for a period of time established by the municipal governing body or
12 board of county commissioners. However, such period of time may not exceed fifteen
13 consecutive days. If an organization receiving a license pursuant to this section conducts a street
14 dance in conjunction with the special event, the organization shall provide qualified security
15 personnel as deemed necessary by the governing body which issued the license to maintain order
16 during the street dance.

17 Section 6. That § 35-4-104 be amended to read as follows:

18 35-4-104. Any municipality or county may issue a special malt beverage ~~retailers'~~ retailers
19 license and a special retail on-sale wine ~~dealers'~~ retailers license to a community playhouse
20 operating as a nonprofit organization for use in conjunction with a theatrical production. Any
21 license issued pursuant to this section may be issued for a period of time established by the
22 municipal governing board or board of county commissioners up to a period of one year.
23 However, such use may not exceed sixty days per year. The selling, serving, or dispensing of
24 malt beverages and wine may not occur more than one hour before the commencement of a

1 performance or at any time after the performance is concluded.